GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Agricultural Marketing Department – The judgment of Hon'ble High Court in W.P.Nos.23752 of 2006 and batch, dt:21.10.2014 on 4(ii) of G.O.Ms.No.451, dt.19.11.2005 regarding levy of market fee @ 1% from the rice millers on the rice sold within the State - Withdrawal of the provisions — Amendment — Issued.

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AGRICULTURE AND COOPERATION (AM-II) DEPARTMENT

G.O.MS.No. 59 Dated:27.10.2015

Read the following:-

1. G.O.Ms.No.451, Agri. & Coop.(Mktg.II) Dept., dt. 19-11-2005.
2. From the President, the Srikakulam District Rice Millers Association, Representation dated:02.06.2014.
3. Hon'ble High Court, A.P., Hyd. orders dt:21.10.2014 in W.P.No.23752/2006.
4. From C&DoAM, A.P., Hyd., Lr.No. Projects/38/A/2015, dt:16.04.2015.

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ORDER:

In the G.O. 1st read above, orders were issued for exempting Rice Millers from payment of market fee @ 1% on rice being sold outside the State as well as exported to other countries from time to time.

2. The Srikakulam Rice Millers Association, A.P. have field W.P.Nos.23752 of 2006 and batch to issue a writ or a orders or a direction that para 4(ii) of G.O.Ms.No.451, A&C(AM.II) Dept., dt:19.11.2005 is ultra vires the provisions of the Andhra Pradesh (Agricultural Produce & Livestock) Markets Act, 1966 and violate the rights guaranteed under Article 14, 19(1)(g) and 300A of the constitution of India and consequently restrain the respondents No.3-9 from levying and collecting market fee on the rice sold by rice millers to indentified purchasers. It also provide to stay the operation of para 4(ii) of G.O.Ms.No.451, A&C(Mktg.II) Dept., dt:19.11.2005.

3. The provision under clause 4(ii) of G.O.Ms.No.451, dt.19.11.2005 are as follows:-

> "The rice mills have to pay market fee @ 1% on the rice sold within the State"

4. The Hon'ble High Court in WP No. 23752/2006 and batch allowed all the Writ Petitions and the impugned paragraph 4(ii) of G.O.Ms.No.451, A&C(Mktg.II) Dept.,dt.19.11.2005 is held contrary to Section 12(2) of the Act. However, this will not preclude the market committee from taking action in pursuance of the proviso to Section 12(2) of the Act wherever the situation demands.

5. The Commissioner &Director of Agricultural Marketing, A.P., Hyderabad has constituted a (3) member Committee i.e., (3) Joint Directors of Marketing in the State with Director of Marketing & Joint Director of Marketing(Vig.) for examining the issue in total & for submitting a mechanism for collection of Market Fee above. The Committee suggested a detailed procedure to implement the Hon'ble High Court orders as per Section 12(2) of A.P. (Agril. Produce & Livestock) Market Act, 1966 for effecting speedy recovery.

P.T.O.

6. The Government have examined the recommendations of (3) Member Committee and the judgment of Hon'ble High Court in W.P.No.23752/2006 and batch, dt:21.10.2014 and issue the following order:-

1. The existing provisions under para 4(ii) of G.O.Ms.No.451, A&C(Mktg.II) Department, dt:19.11.2005 are deleted and Government direct that, the Agricultural Market Committees will collect the market fees keeping in view the provisions under Section 12(2) of Andhra Pradesh (AP&LS) Markets Act,1966 and the proviso thereunder.

2. The Government after examination of the issue hereby accept the recommendations of (3) Member Committee and the procedure for collection of Market fee within the State prescribed is as follows:-

I) Wherever Purchasers are identified:

Where the purchasers are identifiable, to issue notice to them and to recover the amount from them. For the purpose of recovery, if they do not pay, to launch prosecution against them and simultaneously, when they purchase next time from Andhra Pradesh, this recovery should also be made from them.

II) Wherever Purchaser is not identified:

Wherever the purchaser is not identifiable, since the rice millers have sold directly to the purchasers, issue notices to the rice millers to inform the full particulars of the purchaser along with related purchase documents, such as receipts, etc giving fixed time of fifteen (15) days from the date of service of notices. If they fail to intimate the name of the purchaser, with full address within the time limit, then steps must be taken to recover the Market Fee from Rice millers under Section 12(2) of the Act. The Hon'ble High Court has specifically directed that the rice milers have to pay the market fee if purchasers are not identified.

III) For Future action from 2015-16 and beyond:

a) In case of transportation done with export permits:

The Committee gave one more recommendation on the use of exports permits which is not covered in Hon'ble High Court Judgment. The recommendation of the Committee is to make it mandatory to collect Market Fee from purchasers by Rice Millers at source & remit to Market Committee at the time of filing monthly returns wherever export permits are being used by Rice Millers.

b) In case of transportation done without export permits:

In such cases the AMCs shall be instructed to collect the Market Fee from the purchasers at Checkposts and the Department Officers shall ensure the collection of Market Fee by the Checkpost staff.

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IV) Checking of evasion of Market Fee:

The Agricultural Market Committees, Secretaries have to make frequent visits to the Check-posts and also Rice mill premises and see that no Market Fee evasion is there. The JDMs/DDMs/ADMs shall also ensure the above by making frequent visits and also reviews with Agricultural Market Committee Officials.

7. The Commissioner & Director of Agricultural Marketing is requested to take further action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

L.PREMACHANDRA REDDY,
SECRETARY TO GOVERNMENT(COOP.&MKTG)

To
The Commissioner& Director of Agricultural Marketing, A.P., Hyderabad.
Copy to:-
The Additional Advocate General, High Court of A.P., Hyd.
The G.P., APHC, Hyd. for favour of information.
SC/SF.

//FORWARDED :: BY OREDER//

SECTION OFFICER